



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 7221-99  
13 December 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 18 November 1977 at the age of 19. Your record reflects that you received nonjudicial punishment (NJP) on three occasions for disrespect, disobedience, and a two day period of unauthorized absence (UA).

Your record further reflects that on 30 June 1978 you began a 193 day period of UA that was not terminated until you were apprehended on 9 January 1979. On 29 January 1979 you submitted a written request for an undesirable discharge for good of the service in order to avoid trial by court-martial for the foregoing period of UA. Your record shows that prior to submitting this request, you consulted with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request was granted and your commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 23 February 1979 you were so discharged.

The Board, in its review of your record and application considered all mitigating factors, such as your youth and immaturity, good post service conduct, character reference letters, letters of recognition, and certificates. The Board also considered your contention that you received a Good Conduct Medal, and that you would like your discharge upgraded because you were told that you would be sent to jail if you did not request an other than honorable discharge. The Board further considered your contention that you were in a desperate situation, there were mitigating circumstances surrounding your period of UA, you did not received any support from your chain-of-command, and you were having family problems. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given your lengthy period of UA and especially your request for discharge to avoid trial for this offense. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Further, the Board noted that there is no evidence in your record and you submitted none, to support your contentions. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director